

Stormwater Local Government Advisory Committee
Meeting #3
Thursday, May 17, 2012, 10:00 a.m. – 12:00 p.m.
Old Dominion Electric Co-Op
Meeting Notes-DRAFT

1. Welcome and Introductions – *Ginny Snead welcomed the participants present and on the phone. There were three people on the phone: Norm Goulet, Wayne Strickland, and Joe Lerch. She also reviewed the agenda.*
2. Update on DCR Relevant Activities, Legislation, Regulatory Actions – *Ginny Snead provided an update on a number of activities, among them the grandfathering guidance document, the upcoming and ongoing regulatory actions (MS4 individual and general permit, Construction general permit) and referred to the handouts provided for this meeting. She thanked everyone who provided input on the Required SW Program Elements Checklist and in particular, Ms. Ann Neil Cosby who undertook a careful review and rewrite of the draft Stormwater (SW) model ordinance.*
3. Required Program Element Checklist – *Shawn Smith provided an overview of the revisions to the Required Program Element Checklist that were undertaken as a result of committee feedback and recommendations from the Attorney General's Office. She noted clarifications to the language in items 3, 5, 8, 14, 16, and 17 based on this feedback. A committee member asked about what is required for the plan reviewer certification as outlined under Item 5. A discussion regarding the certification that will be required for SW programs ensued, with committee members asking a number of questions:*
 - a. *Whether an existing Combined Plan Reviewer for Erosion and Sediment Control (ESC) will be required to add SW to this certification and if so, what is the time frame for this to be offered an/or required by DCR. Ginny noted that the training program is under development and that DCR hopes to be providing it by sometime next year.*
 - b. *Whether a locality can have separate certified plan reviewers for ESC and SW, or will these two program certifications be combined and required for all ESC and SW programs. Localities which have these programs separated are concerned that the state will mandate they be combined under one department, which will have financial and organizational impacts.*
 - c. *Will the certification training involve a field component.*
 - d. *When will the certification for SW plan review be offered? Ginny noted that the program was under development and that the Department of Conservation and Recreation (DCR) intended to add it to the existing combined administrator training in the next year.*
 - e. *Will there be any grandfathering or other consideration for those combined plan reviewers who have very recently been certified or recertified? Again, localities are concerned that the cost of the new SW certification has not been included in*

local budgets, and further that such cost may be prohibitive for some local governments.

- f. Whether an inspector could be allowed to be “certified” so long as they were enrolled in the appropriate training as is currently allowed under the ESC program?
- g. Finally, local governments expressed concern over the certification for Item 8, which relates to inspectors. The question was again asked whether existing ESC inspectors would be required to be certified as SW inspectors, or if a locality could add SW inspectors as separate staff. There was some discussion of how localities may use third party reviewers for plan review and inspections. It was suggested that this requirement be placed on the developer to provide certification that inspections undertaken by appropriate certified personnel. The question arose as to whether this approach could work under the state regulations.

4. Model Ordinance - Shawn Smith

- a. DCR Presentation - *Shawn provided a summary of the existing sections of the model ordinance, noting that the organization was provided by Ms. Cosby and that the underlined material was added to her draft by DCR. Ginny requested that committee comments be sent to Shawn Smith by June 8, with final comments due by June 30th.*
- b. Committee Questions and Comments
 - i. *A member asked about the lack of an exceptions section in the model ordinance. DCR staff noted this and will review the ordinance to see if this section should be included.*
 - ii. *A member asked whether specifics for ESC plans should be added to the model. DCR staff noted that the general ESC program reference is already included but will see if this needs expansion.*
 - iii. *A member suggested that version dates for the BMP clearinghouse and manual be added to the ordinance. There was some discussion of whether or not this would be helpful, as any change to these documents may then require a change to the local ordinance, and the issue was not resolved one way or another.*
 - iv. *A member noted that the owners’ annual inspection requirement for onsite BMPs is not included in the model ordinance under Section 1-12. The committee member noted this is only required for SW BMPs installed after 2014. DCR staff noted this omission and will review the requirement to add where necessary.*
 - v. *A member asked how many of the many definitions are actually required to be included in local ordinances, as many of them do not seem to apply to a local program. DCR noted that the Attorney General’s Office staff will be reviewing the model ordinance over the summer and would provide input on this question.*

- vi. A member noted that the hearing process would delay current local enforcement practices and needs to be discussed further.
 - vii. A member suggested that an exclusion be provided for single-family lot drainfields under Section 1-3, as the one acre disturbance threshold can easily be exceeded when constructing a house and appurtenant structures such as drainfields.
 - viii. There was a question about the requirements for “common larger plan of development” and how this may impact the resurgence of development at the local level.
 - ix. There was a question about separate plans for VDOT and for other aspects of a larger project which causes issues for localities, who would rather review all aspects of a project under one review umbrella. *Ginny noted that DCR has ongoing meetings with VDOT and some of these issues have been discussed.*
 - x. A question was raised as to whether the ordinance would clarify MS-19.
 - xi. A question was asked whether a locality can adopt the fee schedule by reference, as opposed to having all the specifics in the local ordinance.
5. Virginia ePermitting Survey Update – Gerry Seeley provided an overview of the responses received so far on the local permitting tracking systems and local tracking capacity. He requested any member who had not yet taken the survey to please do so, and that the results of the survey provided good information for DCR as they move forward in developing the ePermitting system. He noted that the ePermitting system would likely be developed as modules, with the most important module being the permit issuing one. He requested committee members to volunteer to be on a subcommittee to assist in the development of the ePermitting system. A number of committee members volunteered and they provided Gerry with their contact information.
6. Committee Issue Identification and General Questions: The committee was asked to air any general concerns and questions. A summary of the comments and questions is outlined below:
- a. A member commented on the need to provide developers with training on how to prepare and maintain SWPPPs and perhaps provide some type of certification for the private sector. Training for localities on SWPPPs was also suggested.
 - b. A member asked about the meaning of “storm water master plan” on page 5 of the Grandfathering Guidance, specifically when does a phased project not have a storm water master plan and how this may affect local programs. Clarification on this topic was requested.
 - c. There were several questions regarding the period of time in between the grandfathering date of 2012 and July 1, 2014, which is the first that a local SW program can be applied to a particular project. The question of how to seek a VSMP permit, which standards to apply, whether the locality can review a project that has not yet sought a VSMP permit in accordance with the new standards, or whether they cannot.

- d. A member requested the development of a couple of new documents or information to be provided as follows:
 - A guidance document that would “identify the key roles and responsibilities of localities, the State (DCR) and private developers to support the application and issuance of permits”;
 - A guidance document that would “identify the key action points during the development plan review process for stormwater/VSMP requirements”;
 - A “Frequently Asked Questions” page on the web or as a handout with SWLGAC input; and
 - Information provided to localities that identifies current enabling legislation for localities to charge fees to support environmental programs.
 - e. There was a question about the required frequency of inspections for SW, ESC, and the SWPPP.
 - f. A comment was made that localities outside of the committee need to be kept in the loop with respect to the SW requirements and tools.
7. Next Meeting: Thursday June 14 – Topics to include:
- a. Training update
 - b. Forms and tools
 - c. Update on current tools and regulatory process.
 - d. Timeline on program adoption
8. Public Comment